

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

**September 28, 2005**

**Clerk of Court**

ROY J. WHITEHEAD,

Plaintiff-Appellant,

v.

COLLIER COUNTY SHERIFF'S  
OFFICE,

Defendant-Appellee.

No. 05-2149  
(District of New Mexico)  
(D.C. No. CIV-05-374 WPJ/KBM)

**ORDER AND JUDGMENT\***

Before **BRISCOE, LUCERO, and MURPHY**, Circuit Judges.

After examining appellant's brief and the appellate record, this court has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Appellant Ray J. Whitehead, a former prisoner, filed a complaint pursuant to 42 U.S.C. § 1983 in federal district court, asserting violations of his federal civil rights. Specifically, Whitehead alleged that since taking part in a 1996 evidentiary hearing while he was in the custody of Defendant, he has been tortured by voices and visions. He further asserts that the alleged torture has resulted in the denial of his right to due process of law, access to the courts, and freedom of religion. In a motion filed with the district court, Whitehead stated that he was “being tortured electronically” by means of “a cell phone in his teeth.” The district court granted Whitehead’s motion to proceed *in forma pauperis* but dismissed his complaint *sua sponte* pursuant to 28 U.S.C. § 1915(e)(2), concluding that it failed to state a claim. *See Neitzke v. Williams*, 490 U.S. 319, 328 (1989). Whitehead appealed.

We have reviewed the record, the appellate briefs, and the applicable law and conclude that the dismissal of Whitehead’s § 1983 complaint was proper. Accordingly, the district court’s order dismissing Whitehead’s complaint is **affirmed** for substantially the reasons stated in the district court’s order dated May 12, 2005.

ENTERED FOR THE COURT

Michael R. Murphy  
Circuit Judge